



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,916	02/09/2001	Dale R. Buchholz	04776.00002	8291

7590 05/12/2004

MICHAEL K. LINDSEY
HOWREY SIMON ARNOLD & WHITE LLP
321 N CLARK
SUITE 3400
CHICAGO, IL 60610

EXAMINER

AZAD, ABUL K

ART UNIT PAPER NUMBER

2654

DATE MAILED: 05/12/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,916

Applicant(s)

BUCHHOLZ ET AL.

Examiner

ABUL K. AZAD

Art Unit

2654

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 and 39-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-29, 31, 32, 36-38, 57-60, 62, 63 and 65-68 is/are rejected.
- 7) ☒ Claim(s) 30, 33-35, 61 and 64 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the communication filed on February 17, 2004.
2. Claims 1-68 are pending in this action. Claims 1-24 and 39-56 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group I, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No.7.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 25-29, 31-32, 36-38, 57-60, 62-63 and 65-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Chandos et al. (US 5,615,214).

As per claim 25, Chandos teaches, "a method for decoding digitized audio, wherein pause information has been added to the digitized audio", the method comprising steps of:

"receiving the digitized audio" (col. 2, lines 63-64, receiving node comprises a receiver for reception of packetized voice data via antenna);

"providing reconstructed audio based on the digitized audio" (col. 3, lines 1-20);

"detecting a condition requiring at least temporary discontinuation of the reconstructed audio" (col. 3, lines 1-20);

Art Unit: 2654

"pausing provision of the reconstructed audio based on the pause information and in response to detecting the condition" (col. 3, lines 1-20).

As per claim 26, Chandos teaches, "wherein the step of detecting further comprises detecting impairment to continued receipt of the digitized audio" (col. 4, lines 10-24).

As per claim 27, Chandos teaches, "wherein the step of detecting further comprises receiving a request to discontinue the reconstructed audio" (col. 5, line 59 to col. 6, line 2).

As per claim 28, Chandos teaches, "further comprising steps of determining that the condition is no longer valid; and continuing provision of the reconstructed audio" (col. 6, lines 3-27).

As per claim 29, Chandos teaches, "wherein the step of pausing further comprises pausing for a predetermined period of time, the method further comprising a step of continuing provision of the reconstructed audio upon expiry of the predetermined period of time" (col. 6, line 57 to col. 7, line 2).

As per claim 31, Chandos teaches, "further comprising a step of storing a predetermined amount of the digitized audio in a buffer prior to the step of providing the reconstructed audio, wherein the reconstructed audio is based on the digitized audio stored in the buffer, and wherein the step of pausing further comprises pausing for a period of time based on the amount of digitized audio remaining in the buffer" (col. 5, lines 43-58).

Art Unit: 2654

As per claim 32, Chandos teaches, "identifying a pause location of the at least one pause location; continuing provision of the reconstructed audio up to the pause location; and pausing provision of the reconstructed audio once the pause location has been reached" (col. 5, line 65 to col. 6, line 27).

As per claim 36, Chandos teaches, "wherein the pause information comprises silence description packets" (col. 5, lines 59-64).

As per claim 37, Chandos teaches, "providing filler audio while pausing the reconstructed audio" (col. 6, line 9-27).

As per claim 38, Chandos teaches, "a computer-readable medium having computer-executable instructions for performing the steps of claim 25" (col. 3, lines 1-20).

As per claims 57-60, 62-63 and 65-67, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 25-29, 31-32 and 36-38.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chandos et al. (US 5,615,214) in view of Callens et al. (US 4,630,262).

Art Unit: 2654

As per claim 68, Chandos teaches, "a system for marking pauses in a digitized audio comprising:"

"a receiver, in communication with the transmitter that receives the digitized audio and the silence description information from the transmitter" (col. 2, lines 50-62); "an audio reconstructor, coupled to the receiver, that provides reconstructed audio based on the digitized audio" (col. 3, lines 1-20); and

"a controller, coupled to the receiver, that at least temporarily discontinues provision of the reconstructed audio and instructs the audio reconstructor to pause the reconstructed audio based on the silence description information" (col. 5, line 59 to col. 6, line 27).

Chandos teaches communication system, details about receiver, but does not explicitly teach a transmitter details. However, Callens teaches:

"a voice activity detector, that takes the digitized audio as input and identifies at least one period of silence longer than a predetermined length within the digitized audio" (col. 9, lines 1-27);

"an encoder that provides the digitized audio as output, and that provides silence description information as output when the voice activity detector identifies the at least one period of silence" (col. 9, lines 1-27);

"a transmitter, coupled to the encoder, that transmits the digitized audio and the silence description information" (col. 9, lines 1-27).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a transmitter as teaches by Callens in the invention of Chandos

Art Unit: 2654

because Callens teaches his invention provides a system for transmitting digitized voice signals in the form of packets of bits, which uses DSI techniques and incorporates means for generating at the receiving end reconstructed voice signals that are as pleasant to the ear and as faithful as possible (col. 1, lines 51-56).

Allowable Subject Matter

7. Claims 30, 33-35, 61 and 64 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(703) 305-3838**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(703) 305-9645**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to:

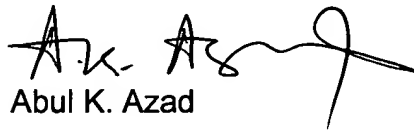
Art Unit: 2654

(703) 872-9314

(For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 2121 Crystal Drive, Arlington,
VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should
be directed to the Technology Center's Customer Service Office at telephone number
(703) 306-0377.



Abul K. Azad

May 3, 2004